

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA, ex rel.	)	
PAUL CAIRNS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:12-CV-00004 AGF
	)	
D. S. MEDICAL, L.L.C., et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS' OPPOSITION TO GOVERNMENT'S BILL OF COSTS**

Defendants oppose the Government's attempt to have the clerk tax costs for a deposition that occurred in 2012, over a year and a half before the Government intervened in this case and while it was still merely investigating. *See* Doc. 493.

28 U.S.C. § 1920(2) provides the Court may award fees for deposition transcripts "necessarily obtained for use in the case." In other words, costs "associated with depositions are taxable if the depositions were obtained for trial preparation and not merely for investigative purposes." *Morgan v. Orthopaedic Associates of Se. Missouri, P.C.*, 2014 WL 3687120, at \*1 (E.D. Mo. July 24, 2014) (citing *Data Mfg., Inc. v. United Parcel Serv., Inc.*, 2009 WL 214598, at \*1 (E.D.Mo. Jan. 28, 2009) and *Slagenweit v. Slagenweit*, 63 F.3d 719, 721 (8th Cir. 1995)).

The Government seeks \$783.45 in costs for William J. Tegel's deposition, the bill for which was dated October 25, 2012. *See* Doc. 493-1 at 1. The Government did not decide to intervene in this case until over a year and a half later, on June 30, 2014. *See* Doc. 23. Clearly, the Government was investigating its case when it deposed Tegel, and his deposition was "merely for investigative purposes." *See Morgan*, 2014 WL 3687120, at \*1. It was not obtained for trial preparation and its cost should not be borne by Defendants. *See id.* Defendants' counsel did not

even begin to enter their appearances until August 2014. *See* Doc. 29. And, tellingly, the next depositions for which the Government seeks costs are almost four years later—when it was conducting depositions in preparation for trial and not merely for investigative purposes. *See* Doc. 493-1 at 1 (next deposition cost dated July 12, 2016).

WHEREFORE, Defendants respectfully request this Court reduce the Government's Bill of Costs by \$783.45.

Dated: April 30, 2020

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 30, 2020, the foregoing was filed electronically with the  
Clerk of Court to be served by operation of the Court's electronic filing system.

/s/ James G. Martin